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New EPA Mercury Rule Omits Conflicting Data

Study Called Stricter Limits Cost-Effective

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When the Environmental Protection Agency unveiled a rule last week to limit mercury emissions from U.S. power plants, officials emphasized that the controls could not be more aggressive because the cost to industry already far exceeded the public health payoff.

What they did not reveal is that a Harvard University study paid for by the EPA, co-authored by an EPA scientist and peer-reviewed by two other EPA scientists had reached the opposite conclusion.

That analysis estimated health benefits 100 times as great as the EPA did, but top agency officials ordered the finding stripped from public documents, said a staff member who helped develop the rule. Acknowledging the Harvard study would have forced the agency to consider more stringent controls, said environmentalists and the study's author.

The mercury issue has long been the focus of heated argument between utilities and environmental advocates. Health advocates say mercury is so harmful to fetuses and pregnant women that steps are needed to sharply control emissions; industry groups and the Bush administration have warned that overly aggressive measures would impose heavy costs.

Announcing the new rule last Tuesday, officials used charts to emphasize that most mercury toxicity in the United States comes from foreign sources, and they used their cost-benefit analysis to show that domestic controls had minimal impact.

Asked about the Harvard analysis, Al McGartland, director of the EPA's National Center for Environmental Economics, said it was submitted too late to be factored into the agency's calculations. He added that crucial elements of the analysis were flawed.

Interviews and documents, however, show that the EPA received the study results by the Jan. 3 deadline, and that officials had been briefed about its methodology as early as last August. EPA officials referred to some aspects of the Harvard study in a briefing for The Washington Post on Feb. 2.

The Harvard study concluded that mercury controls similar to those the EPA proposed could save nearly \$5 billion a year through reduced neurological and cardiac harm. Last Tuesday, however, officials said the health benefits were worth no more than \$50 million a year while the cost to industry would be \$750 million a year.

"They are saying if they fail to regulate mercury from power plants at all, it really wouldn't make a difference," said John Walke, clean air director with the Natural Resources Defense Council, an

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environmental advocacy group. "To acknowledge the real benefits would be to raise the next question: Why didn't you go further?"

James Hammitt, director of the Harvard Center for Risk Analysis and co-author of the study, agreed: "If you have a larger effect of the benefits, that would suggest more aggressive controls were justified."

Mercury is a toxic metal emitted by industrial sources. U.S. power plants emit 48 tons a year, and the new rule establishes an emissions-trading program that is expected to lower emissions to about 31 tons by 2010 and to about 15 tons by 2026. The Harvard analysis was based on similar targets in President Bush's "Clear Skies" legislative proposal.

In most cases, mercury toxicity results from eating fish: Industrial emissions fall from the air into water and are taken up by fish. Because the metal does not break down, it moves steadily up the food chain to species that people consume. A major reason for the dramatic difference in the health benefit estimates was that the EPA looked only at the effects of reducing mercury levels in freshwater fish, but most of the fish Americans eat comes from oceans.

"Some very large share of mercury exposure comes from tuna," Hammitt said. "And while it's true that our power plants have less effect on tuna than on [freshwater] northern pike, if you ignore the saltwater pathway you'll miss a lot of the benefit."

Even though U.S. power plants contribute only about 1 percent of the mercury in the oceans, reducing even that small amount makes a difference, he said. The EPA has said that ocean species such as tuna, pollock, shrimp and halibut account for two-thirds of the mercury Americans consume, while catfish, the largest source of mercury among freshwater fish, accounts for only 3 percent.

Hammitt's analysis also factored in recent evidence that mercury causes heart attacks among adults. The EPA said other studies contradicted that finding and therefore it quantified only the impact of mercury's better-known neurological hazards. Spokeswoman Cynthia Bergman called Hammitt's cardiac analysis "flawed."

The EPA's McGartland, an economist, said that the preliminary Harvard results sent to the agency on Jan. 3 were inadequate, and that the full study did not become available until February. He questioned the Harvard findings about marine mercury, arguing that ocean levels of mercury do not easily change. No EPA draft of the rule ever discussed the Harvard results, he said.

But the EPA staff member involved with developing the rule said the reference deleted from rule-making documents would have told the public about the Harvard results. "The idea was to say Harvard School of Public Health had quantified these [cardiac] benefits and the amount of these benefits was -- " a blank that was to be filled in with a figure in the billions once the final report became available, said the staff member, who spoke on the condition of anonymity for fear of retaliation.

EPA scientist William Farland, who is the agency's deputy assistant administrator for science in research and development, said he had not seen the Harvard analysis and could not comment on its quality. He said the EPA had not quantified the cardiac costs of mercury because "the science is just not strong enough at this point." While mercury could well damage the heart, he said, that harm might be offset by the known cardiac benefits of eating fish.

Although EPA spokeswoman Bergman said last Tuesday that the "costs of this rule outweigh the benefits," officials said later in the week that the cardiac benefits could change the equation. "We say the

costs are bigger than the quantified benefits," McGartland said. "No one can definitively say the costs are bigger than the benefits."

Harvard's Hammitt, who was cautious in describing his findings, readily acknowledged the uncertainties in such analyses. But he questioned the EPA's decision to ignore a study that the agency had paid for and that agency scientists Jacqueline Moya and Rita Schoeny had reviewed.

"If they think there is no significant effect of U.S. power plants on the marine fish we eat, they ought to make that case as opposed to just ignoring it," he said. The fact that U.S. contribution to mercury in oceans "is a small part of the problem doesn't mean it is a part of the problem that should be ignored."

Hammitt's Harvard Center for Risk Analysis has been widely cited by the Bush administration on various science issues. Hammitt assumed leadership of the center from John D. Graham, who is now the administrator of the Federal Office of Information and Regulatory Affairs in the White House Office of Management and Budget. Hammitt noted that Graham was criticized during his confirmation hearings for being "pro-industry."

"I didn't think that was terribly fair," Hammitt said. "Now here we are, doing the same kind of analysis and it comes out in a more environmentally protective direction than EPA is, and they ignore it. There is an irony in that."

The Harvard study was commissioned through EPA grants to an independent nonprofit organization of northeastern-state governments that works on regional environmental issues. Praveen Amar, director of science and policy at the Northeast States for Coordinated Air Use Management, said the EPA provided about \$270,000 in funding for the project. Amar said that scientist Glenn Rice, Hammitt's co-author, is an EPA employee who had been given time to work on a doctoral thesis at the Harvard center.

"Are you saving the industry a billion dollars but taking away \$10 billion worth of benefits for the general public?" Amar asked.

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